

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION

In re:
James R. Tiu

Social Security No.:
xxx-xx-8176

Case No. 09-09904-8-JRL
Chapter 13

Address: 12320 Inglehurst Drive, Raleigh NC 27613

Debtor.

MOTION TO RESTRICT ACCESS TO FILED DOCUMENT

NOW COMES the Debtor James R. Tiu by and through counsel, upon this Motion to Restrict Access to Filed Document, seeking relief pursuant to 11 U.S.C. Sections 105(a) and Bankruptcy Rule 9037(d)(2).

1. That this matter is a core proceeding pursuant to 28 U.S.C. Section 157, and that the Court has jurisdiction pursuant to 28 U.S.C. Sections 151, 157 and 1334.
2. On or about 11/12/2009, the Debtors filed for protection under Chapter 13 of the Bankruptcy Code.
3. On or about 11/24/2009, Creditor Duke University Health System, acting as collection agent for Private Diagnostic Clinic, PLLC, filed Proof of Claim #1 in the amount of \$4,935.18.
4. The Proof of Claim consisted of 14 pages and displayed the Debtors's medical record number, patient identification number, and other sensitive data. The Proof of Claim also disclosed Debtor's individually identifiable health information, containing medical procedure codes, treatment dates and provider names, without redaction.
5. The Proof of Claim is a public document and the Creditor has made the Debtor's private data, sensitive and nonpublic personal medical treatment information available to the general public.
6. The publication of this private information violates various state and federal laws, local court rules, numerous common law torts and is in violation of Bankruptcy Rule 9037.
7. As a result of such violations the debtor has suffered actual damages, including emotional distress.

WHEREFORE, said Debtors respectfully pray of this court as follows:

- A) That the Court issue an order requiring the Clerk of Court to immediately restrict public access to the documents mentioned above.
- B) For such other relief as is just and proper.

Dated: December 21, 2009

LAW OFFICES OF JOHN T. ORCUTT, P.C.

/s/ John T. Orcutt _____

John T. Orcutt
N.C. State Bar No. 10212
6616-203 Six Forks Road
Raleigh, NC 27615
(919)-847-9750

CERTIFICATE OF SERVICE

I, Koury L. Hicks, certify under penalty of perjury that I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age and that on December 21, 2009, I served the foregoing **MOTION TO RESTRICT ACCESS TO FILED DOCUMENT** by depositing a copy of same in the U.S. mail, postage prepaid, or by electronic service addressed to the following parties:

DUKE UNIVERSITY HEALTH SYSTEM
Attn: Managing Agent
5213 S. Alston Ave
Durham, NC 27713-

John F. Logan
Chapter 13 Trustee
PO Box 61039
Raleigh, North Carolina 27661-1039

/s/ Koury L. Hicks
Koury L. Hicks